Adoption

Version 1.0

This guidance tells Her Majesty’s Passport Office examination staff about how adoption affects parental responsibility, nationality and passport applications.
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About: Adoption

This guidance tells Her Majesty’s Passport Office examiners about UK and overseas adoption. It includes:

- how adoptions affect nationality
- the evidence we need to establish nationality when the customer is adopted
- the difference between a Hague Convention adoption and a local court adoption
- countries where adoptions are restricted and we need extra evidence before we process the application.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think the guidance has factual errors then email Guidance & Quality, Operating Standards.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email Guidance & Quality, Operating Standards.

Publication

Below is information on when this version of the guidance was published:

- version 1.0
- published for Home Office staff on 12 October 2021

Changes from last version of this guidance

This document forms part of Her Majesty’s Passport Office transformed guidance.

Related content

Contents
Adoptions and passport applications

This section tells HM Passport Office examiners about what adoptions are, and how they can affect a passport application.

Adoption is the legal process, ordered by the court, where a child or a group of siblings:

- who cannot be brought up within their birth family become full, permanent and legal members of a new family
- become full, permanent and legal members of a new family made up of a birth parent and a step parent

An adoptive parent becomes the child’s legal parent with the same rights and responsibilities as if the child was born to them. The GOV.UK page on adoption, provides further information about adoption in the UK and overseas.

When dealing with a passport application for an adopted person (in the United Kingdom or overseas), you must be aware that adoption affects:

- who holds parental responsibility (for example, who can consent to an adopted child’s passport application)
- the adopted person’s nationality

Restricted overseas adoptions

The adoption of children overseas is regulated by the Intercountry Adoption team in the Department of Education. The UK restricts and closely monitors the adoption of children from some overseas countries due to vulnerability considerations.

If you receive an application for a passport for a child adopted in one of these restricted countries, you must ask for more information and evidence from the adoptive parents.

British citizenship through adoption

An adopted person may already have British nationality through their birth parents, but they can only gain British citizenship through adoption if they were a minor when they were adopted and:

- they were adopted:
  - in a UK court
  - in a qualifying British overseas territory court
  - on or after 1 June 2003 under Article 23 of the Hague Convention
- the adopter is a British citizen on the date of adoption and was habitually resident in the UK at the time of the adoption (in single adoption cases)
- at least one of the adopters is a British citizen and was habitually resident in the UK at the time of the adoption (in joint adoption cases)

Where someone already holds British nationality (for example through a birth parent) they do not lose it if they are adopted.

**Adoptive parent is not a British citizen**

If an adoption takes place and the adoptive parent is not a British citizen, the child will not be a British citizen by that adoption. For example, the child will have no claim to British nationality through an adoptive parent’s UK settlement or Treaty Rights.

However, the child may already have a claim to British citizenship through their birth parents. If you believe the child may have a claim to British citizenship through their birth parents, you must consider asking for supporting evidence to confirm the birth parents’ entitlement to British citizenship.

The adoptive parents may be able to arrange for this evidence with support from Social Services, however you must take particular care when dealing with these enquiries, due to the sensitive nature of the cases.

If the adoptive parents are unable to provide any supporting evidence to confirm their child’s birth parents British citizenship, you must advise the adoptive parents to register the child with UKVI.

**Adoption: where urgent nationality registration is needed**

If you get a passport application for a child adopted in the UK or overseas with British adoptive parents, no automatic claim to British citizenship and the parents have an urgent need to travel (in line with Urgent government business and compassionate travel guidance), you must:

1. Not refuse the application.
2. Send a guidance query to the Guidance & Quality team (using the Quality and Examination Support team referral process) and tell them the child:
   - is going through the adoption process and needs to travel urgently
   - urgently needs to be registered as a British citizen

The Guidance & Quality team will email UK Visas & Immigration (UKVI) to:

- ask them if they can register the child
- let us know when the registration is complete
- send us a scanned copy of the registration certificate

When the Guidance & Quality team tell you the registration is complete, you must:

- add a case note to the application showing the:
  - registration certificate number
  - date of issue
place of issue
issue the passport

Parental responsibility through adoption

Whilst not every person who is adopted automatically gains British nationality through their adoption they may:

- already hold British nationality through their birth parents
- register as a British national

Adoption does affect who holds parental responsibility (PR) for a child, as PR is granted to the adoptive parents. Depending on the situation the birth parents may retain PR or it may be removed by the courts.

Where the adoption took place overseas outside the UK and British overseas territories, and is not a Hague Convention (article 23) adoption, we must be sure we recognise the adoption as legal in the UK. We do this to make sure the person applying on behalf of the child has PR. See, Parents and guardians: consent guidance.

Children taken outside of the UK for adoption

Where a child is born in the UK, their transfer outside of the UK for the purposes of adoption is covered under Section 84 and 85 of the Adoption and Children Act 2002.

In line with this legislation, a child living in the UK must not be transferred to a place outside of the UK for adoption, unless the:

- adopters have a parental responsibility order granted under Section 84 of the Adoption and Children Act 2002
- child is to be removed by a court order, under:
  - Section 49 of the Adoption (Scotland) Act 1978
  - Article 57 of the Adoption (Northern Ireland) Order 1987

If you suspect that a customer is applying for a British passport to transfer a child out of the UK, Channel Islands or the Isle of Man for the purposes of adoption, you must:

- not continue to process the application
- refer the application to your operational team leader (OTL) immediately, who will need to liaise with:
  - Counter Fraud team (CFT)
  - Child Protection and Safeguarding team (CPST)

Related content

Contents
Adoptions in the United Kingdom

This section tells HM Passport Office examiners about adoptions in the United Kingdom, and how they can affect a passport application.

The nationality status of a person adopted in the UK will depend on when and where the adoption took place and also how old the person was when they were adopted. Various legislation applies, depending on whether the person was adopted in the:

- Channel Islands or Isle of Man
- rest of the UK, excluding the Channel Islands or Isle of Man

Adoption: UK excluding Channel Islands or Isle of Man

In the United Kingdom (UK) (excluding the Channel Islands or Isle of Man), the nationality status of an adopted person will depend on when the adoption took place. This is due to changes in legislation around when a child would become a British citizen following their adoption.

If you are dealing with an application where a child was adopted in the UK you, the examiner, must find out whether the adoption took place:

- before 1 January 1950
- between 1 January 1950 and 31 December 1982
- on or after 1 January 1983

A child must be under the age of 18 at the time of the adoption, unless the adoption took place before 1 January 1970, when the age of majority in the UK was 21.

For the purposes of nationality, the child will only become a British citizen by adoption if they are adopted under the age of 18.

Adoptions before 1 January 1950

Where an adoption took place in the UK before 1 January 1950, under the Adoption Act 1926, a court had no power to make an adoption order for a child who was not a British subject.

Adoption orders made before 1 January 1950 have no effect on the nationality status of the adopted person. It can be assumed the adopted person was a British subject, citizen of the United Kingdom and colonies at the date of their adoption. More information around the nationality status, and whether it is by descent (BD) or otherwise by descent (OTBD), can be found in the British citizenship guidance.

Where the adoption order issued in England or Wales does not show a place of birth, you must refer the application to an operational team leader (OTL) to make further enquiries.
You, the OTL, must consider contacting the court where the adoption was made, to find out the place of birth. You must take particular care when dealing with these enquiries, due to the sensitive nature of the cases.

If you are dealing with an application where the child was adopted in Scotland, short adoption certificates entered in the Adopted Children Register (Scotland) before 1 October 1950 do not show the country of birth. You must contact National Records of Scotland (NRS), who can provide confirmation of the country of birth.

For applications where the child was adopted in Northern Ireland, a short adoption certificate does not usually show the adopted child's country of birth. A full adoption certificate will show the country of birth, where this happened outside of Northern Ireland. If you need to confirm the country of birth, you must contact the General Registrar’s Office (GRO) for Northern Ireland.

Adoptions between 1 January 1950 and 31 December 1982

Where a child of any nationality was adopted in the UK, they will become a British subject, citizen of the United Kingdom and colonies (BSUKC), from the date of their adoption, if:

- they were adopted between 1 January 1950 and 31 December 1982
- the adopter was a BSUKC (in single adoption cases)
- the male adopter was a BSUKC (in joint adoption cases)

A female BSUKC can only pass on her citizenship to an adopted child in a single adoption case.

This was originally covered in legislation under section 8 of the Adoption of Children Act 1949 and was later covered under:

- section 19 of the Adoption Act 1958
- section 1(3) of the Adoption Act 1964 (extended to cover adoptions in the Isle of Man and Channel Islands)
- section 40 of the Adoption Act 1976 (which came into force on 1 January 1988)

If a child was adopted in the UK during this time, they will get Right of Abode (ROA) status if they become a BSUKC following their adoption.

From 1 January 1983, following the introduction of the British Nationality Act 1981, a BSUKC with ROA will automatically become a British citizen.

Adoptions on or after 1 January 1983

From 1 January 1983, a child under 18 years old, adopted through a court in the UK will become a British citizen, if either:

- the adopter is a British citizen on the date of adoption
• at least one of the adopters is a British citizen (in joint adoption cases)

This is covered in the British Nationality Act 1981, under section 1(5).

In joint adoption cases, the adopting parents do not need to be married for the child to obtain British nationality from either parent. For nationality purposes, the child will be considered British.

**Adoption: Channel Islands or Isle of Man**

Section 19 of the Adoption Act 1958 was extended to the Channel Islands and Isle of Man (‘the Islands’) by section 1(3) of the Adoption Act 1964 (later repealed by section 40 of the Adoption Act 1976).

If a child was adopted in the Channel Islands or Isle of Man:

• before 1 April 1959, Section 1(3) of the Adoption Act 1964 was provided with retrospective effect, meaning the child will become a BSUKC from the date of their adoption (the same as an adoption in the UK after 1 January 1950)
• between 1 April 1959 and 16 July 1964, they will become a BSUKC from 16 July 1964 (when the Adoption Act 1964 came into force).
• after 16 July 1964, they will become a BSUKC from the date of the adoption order

From 1 January 1983, section 1(5) of the British Nationality Act 1981 applies. An adopted child will become a British citizen following adoption, in line with adoptions in the UK on or after 1 January 1983.

**Traveling outside of the UK during adoption proceedings**

During adoption proceedings in the UK, if a child is to be taken abroad, the person applying for the passport must get consent from the:

• local authority with parental responsibility for the child (under section 18 of the Adoption and Children Act 2002), for adoptions in England and Wales only
• adoption agency with parental responsibility for the child (under the Adoption (Northern Ireland) Order 1987)
• person or agency with parental responsibilities or parent rights (under section 18 of the Adoption (Scotland) Act 1978)

If a child lives with a birth parent who has parental responsibility and the purpose of the adoption is to legalise the position of another adoptive parent. You, the examiner, must ask for the consent from the birth parent.

Where a child has been placed for adoption under section 19 of the Adoption and Children Act 2002 (in England and Wales only), the adopters will have parental responsibility. You may need to ask for a copy of the court order, as there are often restrictions on the scope of the adopter’s parental responsibility.
Where an adoption order has been made but the adoption has not been finalised, for nationality purposes, a child will have a claim to British citizenship either:

- through their birth parent
- under Section 1(5) of British Nationality Act 1981 (where the child was not already a British citizen before their adoption order was granted)

If a child has a claim to British citizenship under Section 1(5) of the British Nationality Act 1981 as a result of an adoption order being issued, they will remain a British citizen regardless of whether the adoption order ceases to have effect.

Related content
Contents
Adoption: British overseas territory

This section tells HM Passport Office examiners about adoptions in a British overseas territory, and how they can affect a passport application.

The nationality status of a child adopted in a British overseas territory will depend on where the adoption took place. Various legislation applies, depending on whether the child was adopted in the:

- Falkland Islands
- rest of the British overseas territories

Adoption in the Falkland Islands on or after 1 January 1983

The British Nationality (Falkland Islands) Act 1983 was effective on 1 January 1983 and gives details on how people born in the Falkland Islands can claim British citizenship.

Where a child has been adopted in the Falkland Islands on or after 1 January 1983, they are entitled to become a British citizen (if they were not already) from the date of the adoption order. This is under section 1(4) of British Nationality (Falkland Islands) Act 1983, and applies if both:

- at the time of the adoption, at least one of the adopters was a British citizen
- they were adopted through a court in the Falkland Islands on or after 1 January 1983 and before 21 May 2002

If a child was adopted in the Falkland Islands on or after 21 May 2002, the child may become a British citizen under Section 1(5) of the British Nationality Act 1981 (see Adoption: in other British Overseas Territories).

If an adoption took place in the Falkland Islands before 1 January 1983, the child would not acquire British citizenship as a result of their adoption.

Adoption: in other British Overseas Territories

From 21 May 2002, a foreign child under 18 years old, adopted in a British overseas territory will become either a:

- British citizen
- British Overseas Territories citizen

A child will become a British citizen if, either:

- the adopter is a British citizen (in single adoption cases)
- one of the adopters is a British citizen (in joint adoption cases)
This is covered in legislation under section 1(5) of the British Nationality Act 1981, as amended by Schedule 1 to the British Overseas Territories Act 2002.

A child will become a British Overseas Territories citizen if, either:

- the adopter is a British Overseas Territories citizen (in single adoption cases)
- one of the adopters is a British Overseas Territories citizen (in joint adoption cases)

This is covered in legislation under section 15(5) of the British Nationality Act 1981.

Qualifying overseas territories include:

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- Cayman Islands
- Falkland Islands
- Gibraltar
- Montserrat
- Pitcairn Islands
- St Helena
- Ascension and Tristan da Cunha
- South Georgia and The South Sandwich Islands
- Turks and Caicos Islands
- British Virgin Islands

The Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus) are not covered under this legislation and do not form part of qualifying overseas territory for the purposes of adoption.

For the nationality status of children adopted in a British overseas territory between 1 January 1983 and 21 May 2002, see the British overseas territories citizen (BOTC) guidance for more information.

Related content
Contents
Adoption overseas

This section tells HM Passport Office examiners about adoptions overseas, and how they can affect a passport application.

The Adoption and Children Act 2002 set out the procedures for the adoption of children from abroad by a person who lives in the UK.

These regulations make sure that children are not brought to, or taken out of the UK for adoption, without safeguards and approval by the relevant authorities.

If you are dealing with an application where there is an indication of abduction, trafficking or children being bought or sold, you must follow the vulnerability considerations for passports guidance.

How to establish nationality through an overseas adoption

Adoption overseas does not guarantee the adoptee British nationality. Their eligibility will depend on:

- how old they were at the time of the adoption
- what kind of adoption order they have
- where their adoptive British parent was habitually resident at the time of the adoption

For the purposes of overseas adoption, a child must be under the age of 18 at the time of the adoption.

A person who is not already a British national and not adopted in the UK or a qualifying British overseas territory will only have a claim to British citizenship under section 1(5) of the British Nationality Act 1981 if:

- they were adopted on or after 1 June 2003 under Article 23 of the Hague Convention and:
  - the adopter is a British citizen on the date of adoption and was habitually resident in the UK at the time of the adoption (in single adoption cases)
  - at least one of the adopters is a British citizen and was habitually resident in the UK at the time of the adoption (in joint adoption cases)

If the child was not already a British national or does not become a British citizen following their adoption, they can only become a British citizen if they register, under section 3(1) of the British Nationality Act 1981. You must tell the customer to contact UK Visas and Immigration (UKVI) to register.
Adoption: under the Hague Convention (article 23)

Where the adoption has taken place under the Hague Convention under Article 23 on or after 1 June 2003, you must ask the adoptive parent to send us the Hague Convention (article 23) adoption order, to confirm the adoption is:

- a Convention adoption
- in accordance with Article 23 of the Hague Convention

Some article 23 adoption orders may also state they have been issued under article 17 of the Convention of 29 May 1993. These adoption orders can also be accepted for passport purposes.

Whilst many countries (including the UK) signed up to the Hague Convention not all adoptions in these countries are done under Article 23 and many more are done through local courts. Hague Convention (article 23) adoption orders will specifically record this and confirm which country the child will move to.

The Hague Convention (article 23) specifically relates to the Convention of 29 May 1993, on Protection of Children and Co-operation in Respect of Intercountry Adoption.

This Convention is aimed at protecting the best interests of an adopted child, and was set up to establish a system of co-operation between the countries involved, to prevent children from being:

- abducted
- bought or sold
- trafficked

What habitual residence is

The courts consider ‘habitual residence’ to be the country where a person spends most of their year. For most people, this is the place they call home and where they live and work. Therefore, a person living in the UK for most of the year is habitually resident in the UK.

Some examples of evidence to prove habitual residence may include, but are not limited to:

- entry stamps
- tenancy or mortgage agreements
- confirmation of employment
- confirmation of registration at a doctor’s surgery

The (Commencement No.9) Order 2003 brought into force section 7 of the Adoption (Intercountry Aspects) Act 1999. This allows the Hague Convention on the Protection of Children and Co-operation full effect regarding Intercountry Adoption.
Overseas adoptions: for parental responsibility purposes

Where an overseas adoption takes place in an overseas court and is not done under Article 23 of the Hague Convention, this is known as a local adoption. These adoptions can take place in countries that are either signed up to the Hague Convention or not.

A child adopted under a local adoption will not have a claim to British citizenship through their overseas adoption, for the purposes of their nationality. However, these adoptions may still be recognised in the UK for parental responsibility purposes, for example, when the adoptee has a claim to British nationality through their birth parents or have registered as a British citizen.

Parents who adopt overseas through a local court will need to register their children with the Home Office before we can issue them with a UK passport. If the child has been registered through the Home Office, you must check who has parental responsibility for the child before you process the application.

A list of countries where the UK can accept local adoptions for parental responsibility reasons only can be found in the Adoption (Regulation of Overseas Adoption) Order 2013.

How to establish PR when there is an overseas adoption

If the child has a claim to British nationality and you are dealing with a passport application for a child adopted overseas, you must check if the adoptive parents have parental responsibility.

See the Parents and guardians: consent guidance for more information.

Countries the UK restrict adoptions from

Children who are brought into the UK for adoption are protected under the Adoption (Bringing Children into the United Kingdom) Regulations 2003, which came into force on 1 June 2003. These regulations laid down the requirements that adopters must meet.

The adoption of children overseas is regulated by the Intercountry Adoption team in the Department of Education. The UK does not accept (restricted) adoptions from the following countries:

- Cambodia (from 22 June 2004)
- Guatemala (from 6 December 2007)
- Nepal (from 3 May 2010)
- Haiti (from 15 October 2010)
- Ethiopia (from 21 May 2018)
- Nigeria (from 12 March 2021)

For more information on the reasons for the restrictions, see GOV.UK.
Restricted adoptions apply to children adopted overseas, who do not have:

- a Hague Convention article 23 adoption
- a UK court adoption
- a claim to British citizenship through their birth parent

**Restricted adoption: how to deal with a case**

If you, the examiner, are dealing with an application where a restricted adoption applies, you must:

1. Carry out all standard checks on the application and supporting documents, in line with current guidance (for example, confirming nationality, identity).
2. Check the date the adoption took place, against the date the restrictions came into force.

Where the adoption has taken place before the restriction came into force, the adoption must not be treated as a restricted adoption. You must continue to deal with this application as normal, in line with guidance.

If the adoption has taken place after the restriction came into force, you must:

1. Ask the customer to provide a certificate of eligibility to adopt, issued by the Department for Education.
2. Check the certificate of eligibility to adopt:
   - matches the samples in Knowledge Base
   - was issued after the restrictions came into force

If you are content with the certificate of eligibility to adopt provided, you must continue to deal with the application as normal, in line with current guidance.

You must refer the application to Counter Fraud team (CFT) if the customer does not have a certificate of eligibility to adopt and the adoption took place after the restriction came into force. The CFT will deal with this in line with the Restricted adoptions guidance.

**Related content**

[Contents]
Adoption: evidence to support passport applications

This section tells HM Passport Office examiners about the evidence that we need to process a passport application when an adoption has taken place.

If you are dealing with an application where a person has been adopted, we need evidence to confirm their nationality and (if the person is a child) who has parental responsibility for them.

**Adoption certificates: issued before 1 June 2003**

Adoptions that took place before 1 June 2003 in the UK were registered in the UK Adopted Children Register by the Registrar General. Overseas adoptions were not registered on the UK Adopted Children Register at this time.

You must ask the customer to provide further supporting evidence to confirm the adopted child’s claim to British citizenship if they were born after 1 January 1983. You must ask the customer to provide evidence of the adoptive parents claim to British citizenship, alongside the adoption certificate.

**Adoption certificates: issued on or after 1 June 2003**

From 1 June 2003, adoptions made outside of the UK and recognised by UK law for parental responsibility purposes may be registered in the UK Adopted Children Register by the relevant Registrar General.

For passport purposes, this means that a full UK adoption certificate, issued on or after 1 June 2003, will:

- show where the adoption took place
- not necessarily be proof of a UK adoption

The adoption may be:

- an adoption in a UK court
- an adoption overseas recognised (for parental responsibility purposes) by UK law

If a child appears to have a claim to British nationality through their adoption, you must check the adoption:

- took place in a UK court
- was a Hague Convention (article 23), adoption
If the full adoption certificate shows the adoption took place overseas and you are unable to confirm whether it was done under the Hague Convention (article 23), you must contact the adoptive parent. If the parent confirms the adoption took place under the Hague Convention (article 23), you must ask the adoptive parent to send us a copy of the Hague certificate.

Alongside the adoption certificate, you must also ask the customer to provide further supporting evidence to confirm the adopted child’s claim to British citizenship.

**Adoption certificates: further supporting evidence needed**

To confirm the customer’s claim to British citizenship you must ask for evidence to establish a claim from the adoptee and their adoptive British parent.

Evidence may include, but is not limited to:

- the adopter’s full birth certificate
- a British passport or passport number issued to the adopter
- the adoptee’s full adoption certificate (on which the adopter is named)
- a copy of the adoption order

If there is no indication the adoptee is aware they are adopted, you must take care when requesting this evidence.

**Adoption certificates: where information is missing**

Where an adoption certificate is produced that does not show the country of birth, you must follow the place and country of birth guidance before dealing with the application.

If an adoption certificate is produced and it does not show the adopted person’s date of birth, you must follow the date of birth guidance.

**Adoption orders**

Where a customer is adopted, the adoption certificate should be submitted as evidence to support a passport application, unless the customer has a Hague Convention (article 23) adoption order. This applies to adoptions that took place in:

- the UK
- British Overseas Territories
- overseas

**UK adoption orders**

For UK adoptions, you can accept an adoption order instead of an adoption certificate, if the adoption certificate has not yet been issued (adoption certificates can take up to four weeks to be issued).
From 27 May 1984, rules were introduced to state that adoption orders do not need a signature of the registrar if they are made in the County court. If the adoption was made in domestic courts, the order must be signed by either the:

- Justice of the Peace
- Clerk of the court

If you have concerns about the authenticity of a UK adoption order, you must contact the UK court where the order was made.

**Adoption orders: overseas and British Overseas Territories**

Overseas and British Overseas Territory adoption orders that are recognised in the UK, may be accepted as evidence of:

- parental responsibility
- the child’s name
- the child’s date of birth
- the child’s place of birth

If the adoption order was granted under the [Hague Convention (article 23)](https://www.humanrightscouncil.org/en/crises-and-issues/displacement/), it can also be accepted as evidence of nationality.

**Related content**

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